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Federal Communications Commission

DA 00-2425

Before the
Federal Communications Commission
Washington, D.C. 20554

2000 OCT 31 PM 4:33

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 00-54
Table of Allotments,) RM-9835
FM Broadcast Stations.) RM-9907
(Mount Pleasant & Bogata, Texas)¹)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 18, 2000

Released: October 27, 2000

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Leo Ashcraft ("Ashcraft"), the Commission has before it for consideration the Notice of Proposed Rule Making, 15 FCC Rcd 5605 (2000), requesting the allotment of Channel 263A at Mount Pleasant, Texas, as the community's first local FM broadcast service.² Terry Keith Hammond and Bessie P. Hammond, d/b/a Broadcast Services filed comments ("Broadcast Services"). Bogata Broadcasting Company ("BBC") filed a counterproposal.³ No other comments were received in response to the Notice.

2. BBC counterproposed the allotment of Channel 263A at Bogata, Texas, as that community's first local aural service. In support of its request, BBC states that the community of Bogata was incorporated in 1930 and is governed by a mayor and five council members. BBC points out that Bogata has a population of 1,421 people based on the 1990 U.S. Census, is located in Red River County and has its own post office and zip code (75417). Further, Bogata has a weekly newspaper, The Bogata News, a Masonic Lodge, Veterans of Foreign Wars outpost and various booster organizations. BBC states that the Rivercrest-Bogata Independent School District has grades Kindergarten through twelve. The community has a nursing home, health care clinic, six churches, along with over sixty commercial establishments and retail businesses to serve the residents of Bogata. BBC believes that the allotment will serve the public interest and has stated its intention to file an application for Channel 263A at Bogata.

¹ The community of Bogata, Texas, has been added to the caption.

² Carephil Communications, licensee of Station KBUS(FM), Paris, Texas, has requested the reallocation of Channel 270C3 from Paris, Texas, to Mount Pleasant, Texas, and modification of the license for Station KBUS(FM) to specify Mount Pleasant as its community of license. See MM Docket No. 00-20, 15 FCC Rcd 2199 (2000).

³ The counterproposal filed by Bogata Broadcasting Company was put on public notice on June 23, 2000, Report No. 2421 (RM-9907).

3. Although Ashcraft requested the allotment of Channel 263A at Mount Pleasant, Texas, resulting in the issuance of the Notice, it failed to file comments as required by Section 1.415 of the Commission's Rules and the Appendix to this proceeding.⁴ See Santa Isabel, Puerto Rico and Christiansted, Virgin Islands, 3 FCC Rcd 2336 (1988). With respect to the comments filed by Broadcast Services, we find that these comments supporting an allotment at Mount Pleasant are unacceptable. Broadcast Services did not file a certificate of service with its comments indicating that a copy was served on Ashcraft in compliance with Section 1.420(a) of the Commission's Rules. See Wilson Creek, Washington and Pendleton, Oregon, 11 FCC Rcd 11842 (1996). Further, Broadcast Services neglected to provide an address in compliance with Section 1.52 of the Commission's Rules, subscription and verification. Therefore, in view of the above discussion, no further consideration will be given to the allotment of an FM channel at Mount Pleasant, Texas.

4. In response to the counterproposal filed by BBC, we shall allot Channel 263A at Bogata, Texas. Channel 263A can be allotted to Bogata in compliance with the Commission's spacing requirements.⁵

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 12, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

Community	Channel Number
Bogata, Texas	263A

6. A filing window for Channel 263A at Bogata, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the petition for Rule Making filed by by Leo Ashcraft (RM-9835), IS DISMISSED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

⁴ As the original of its petition for rule making was signed by its technical consultant and not verified, Ashcraft was requested to rectify this omission in comments. See footnote no. 1 of the Notice.

⁵ The coordinates for Channel 263A at Bogata are 33-23-50 and 95-11-42.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 263A, Bogata, Texas, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau**